



U.S. Environmental Protection Agency OFFICE OF INSPECTOR GENERAL

Selected OIG Accomplishments *July-September 1999*

This Quarterly Report of Selected Activities is produced by the EPA OIG, Nikki L. Tinsley, Inspector General.

Questions concerning this update or requests for copies of OIG audit reports, reviews, or other documents should be directed to James O. Rauch, 401 M Street SW (2421), Washington, DC 20460. **Telephone (202) 260-4942.**

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Audit Activities

| Report Issued | Report Number/Program Office |
|---|--|
| Delayed New Jersey RCRA Reauthorization Impacted Region 2's Enforcement Program | 1999-1-00224 Region 2 - Divisions of Enforcement and Compliance Assistance/ Environmental Planning and Protection Criminal Investigations Division |
| Key Great Lakes Strategy and Activities Need Improvement | 99P00212 Regions 2, 3, and 5 - Office of Research and Development Region 5 - Great Lakes National Program Office |
| Backlog of Superfund Five-Year Reviews Has Increased Nearly Threefold | 1999-P-218 Offices of Solid Waste and Emergency Response/Emergency and Remedial Response |
| Update - - Major Improvements Made in Rhode Island's RCRA Enforcement Program | E1GSD8-01-0006-9100078 Region 1 - Offices of Environmental Stewardship/Ecosystem Protection |

Significant Report Summaries

Delayed New Jersey RCRA Reauthorization Impacted Region 2's Enforcement Program

EPA had not reauthorized New Jersey's new RCRA (Resource Conservation and Recovery Program) base program more than two and one half years after it was submitted. By not elevating action to a higher management level earlier, Region 2 allowed the application process to be delayed. As a result, Federal regulations divested EPA of its enforcement authority for certain RCRA program activities. Enforcement was unnecessarily delayed or not pursued against violators who illegally shipped hazardous wastes to landfills; improperly stored chemicals near a residential neighborhood; and buried flammable paint and waste solvents on private property. Such violations potentially harmed not only the environment but nearby residents. Five criminal cases were not pursued by Federal authorities under RCRA. Region 2 also needed to improve its timeliness in issuing enforcement actions and following up on violators' return to compliance. As a result, resources were not being used efficiently to carry out program goals; facilities may not have been treated consistently; violators may have received unfair economic advantage; and facilities were not returned to compliance as expeditiously as possible. We recommended that EPA develop a process to prevent a lengthy period where its civil and/or criminal enforcement authority would be adversely affected, establish time frames for the process, elevate persistent problems, and withdraw state authorization or Federal grant funds as appropriate.

Key Great Lakes Strategy and Activities Need Improvement

The purpose of the Great Lakes Water Quality Agreement between the U.S. and Canada, signed in 1972, is to restore and maintain the chemical, physical, and biological integrity of the Great Lakes basin ecosystem. The basin is home to more than one-tenth of the U.S. population, and has some of the world's largest concentrations of industrial capacity. At EPA's request we reviewed the Great Lakes Program.

EPA needs to improve its Lakewide Management Plans (LaMPs) and Remedial Action Plans (RAPs) which were established as systematic and comprehensive ecosystem approaches to address the Great Lakes. LaMPs and RAPs are taking longer than expected to complete. For example, while a draft LaMP for Lake Michigan was first published in 1992, it was never finalized; thereby not meeting the statutory deadline of January 1, 1994. Officials currently plan to issue this LaMP by April 2000. Without these plans, there is no assurance that EPA was doing the right, most cost effective, and highest priority activities needed to protect the Great Lakes. To improve the LaMP process, EPA needs to place a priority on issuing written plans during FY 2000, and work with its partners to identify and implement ways to make the LaMP process more efficient. To improve the RAP process, EPA needs to establish a coordinator to better organize the RAP liaisons. In developing the Great Lakes 5-year strategy, the program office should strive to obtain buy-in and commitment from all parties, focus on goals, include performance measures, and provide accountability for implementation.

Backlog of Superfund Five-Year Reviews Has Increased Nearly Threefold

The Superfund statute requires that remedial actions, where hazardous substances, pollutants, or contaminants remain on-site, be reviewed every five years to assure that human health and the environment continue to be protected. Some five-year reviews have found that corrective actions were needed. In March 1995, we reported that a substantial number of reviews had not been performed because of the low priority given them. Our follow-up audit found that the backlog of reviews had increased from 52 to 143 overdue reviews. Further, a growing number of sites will require the reviews, since the use of containment remedies has been increasing. To effectively address the backlog, EPA may need to spend approximately \$1 million above the current spending level each year for the next three years. As of March 1999, 63 percent of reviews were issued an average of 17 months after required due dates. As a

result, EPA did not inform those in affected communities or the Congress about whether corrective actions were warranted as early as it should have. Nine of 32 five-year reports we examined did not include a conclusion on the protectiveness of site remedies or did not adequately support the conclusions made. We recommended that EPA designate the backlog of five-year reviews as a weakness under the Federal Managers' Financial Integrity Act; establish a performance measure for the reviews; and ensure that reports contain an adequately supported statement of protectiveness.

Update—Major Improvements Made in Rhode Island's RCRA Enforcement Program

In January 1999, the OIG reported that the Rhode Island Department of Environmental Management (RIDEM) was inadequately enforcing federal RCRA (Resource Conservation

and Recovery Act) regulations, and recommended actions to improve enforcement. Rhode Island did not take formal enforcement action on serious violations, such as leaking battery acid and drums of hazardous waste. EPA's Region 1 Administrator has since reported that RIDEM had satisfied the nine criteria EPA designed for Rhode Island to demonstrate that it could administer a credible RCRA program. RIDEM adopted EPA's RCRA Enforcement Response Policy until its own policy is approved; was properly identifying and initiating formal enforcement actions against RCRA significant non-compliers; conducted timely follow-up inspections for newly concluded cases; and established the necessary tracking and policy mechanisms to ensure that proper escalation of a case can and will occur. The Regional Administrator determined that withdrawal of the RCRA program was not warranted, and planned for regional and state staffs to continue to meet monthly.

Investigative Activities

| Action | | Type/Case Number |
|---|--|--------------------------------------|
| Two Persons Indicted and Arrested for Scheme Using Fraudulent EPA Purchase Orders | | Indictment/Arrest 98-2001 |
| Chemist and Supervisor Pled Guilty to Falsifying Laboratory Analyses | | Conviction 98-2007 |
| Employees Charged with Conspiracy, Obstruction of Justice, and Perjury | | Indictment 97-3015 |

Two People Indicted and Arrested for Scheme Using Fraudulent EPA Purchase Orders

On September 15, 1999, a female defendant who uses variations of the name "Cheryl T. Burnette" was indicted in U.S. District Court, District of New Hampshire, on charges of wire fraud and impersonating a government employee. On September 28, 1999, the United States Attorney's Office in New Hampshire filed a criminal complaint against a male defendant who uses the name "Michael Tamulis," charging him with conspiracy to commit wire fraud. The two individuals, whose true identities are still unknown, were arrested in Hartford, Vermont.

According to the charges filed, the defendants falsely represented themselves as employees of the EPA through a sham business entity known as United States Environmental. Allegedly, both individuals used their assumed identities and fictitious government affiliation to steal more than \$75,000 in goods and services from individuals and businesses located in New Hampshire, Massachusetts, Vermont, Washington, D.C., Georgia, and several other states. The alleged scheme included using fraudulent government procurement numbers and purchase orders to establish direct billing accounts with victims who believed they were doing business with and would be paid by the

Federal government. *This investigation was conducted jointly by the EPA OIG; the New Hampshire Attorney General's office; the Salem, New Hampshire Police Department; and the Hartford, Vermont, Police Department.*

Chemist and Supervisor Pled Guilty to Falsifying Laboratory Analyses

On July 21, 1999, Valerie Smith, a laboratory chemist, and Mark Bevan, a laboratory supervisor, each pled guilty in United States District Court, Eastern District of North Carolina, to making a false statement and aiding and abetting others in the commission of making a false statement. In May 1999, Smith and Bevan, employees of CompuChem Environmental Corporation of Cary, North Carolina, were charged with conducting improper gas chromatograph/mass spectrometer analyses on samples taken from hazardous waste sites nationwide and falsely certifying that the analyses complied with all EPA contract requirements. The EPA relies on the testing data provided by laboratories participating in the Contract Laboratory Program to assess threats to public health and the environment and to determine where and when remedial action is needed.

Employees Charged with Conspiracy, Obstruction of Justice, and Perjury

On August 24, 1999, an EPA attorney and an EPA environmental specialist were indicted in United States District Court, Eastern District of Wisconsin, on charges of conspiracy, obstruction of justice, and perjury. The indictment charges that the defendants conspired to deceive the Federal courts by providing false statements, affidavits, and testimony in conjunction with separate lawsuits brought by the State of Wisconsin and other parties challenging the EPA's decisions to grant the Menominee Indian Tribe (Menominee), the Oneida Tribe of Indians of Wisconsin (Oneida), and the Lac du Flambeau Band of Lake Superior Chippewa Indians (Lac du Flambeau) TAS status (i.e., treat in the same manner as a state) as provided for under section 518 (a) of the Clean Water Act. The Menominee, Oneida, and Lac du Flambeau sought TAS status in order to develop a water quality standards

program to determine the quality of surface waters within their respective reservations. On January 25, 1996, EPA approved the three applications for TAS status. The indictment charges that the primary object of the alleged conspiracy and subsequent criminal acts was to deceive the federal courts into believing that three documents (factual analyses of substantial effects of non-Indian activities within each applicant's reservation) were created in January 1996 and were relied on by the EPA to make its decisions when, in fact, the defendants created these documents in May 1996 after the lawsuits were filed. The TAS lawsuits were subsequently dismissed and the EPA was ordered to pay the State of Wisconsin and other parties approximately \$389,000 in attorney's fees and court costs.

